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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



STEVEN E. CHESTER
DIRECTOR

June 13, 2007

To Whom It May Concern:

The Michigan Department of Environmental Quality (MDEQ) has revised and re-issued the attached **General Permit Categories for Minor Activities in Wetlands in the State of Michigan**, effective June 13, 2007. This document replaces the previous General Permit Categories issued June 14, 2002.

General Permit Categories are used by the MDEQ to identify proposed activities in wetlands that can be processed and authorized using expedited procedures, as authorized by Section 30312 of Part 303 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. Activities that are authorized under a General Permit do not require an individual public notice, are subject to lower application fees, and are generally not subject to mitigation requirements.

In issuing these General Permit Categories, the MDEQ considered comments received in response to a public notice issued March 6, 2007, and in response to notice of the proposed re-issuance in the Department Calendar. We appreciate the interest expressed by those who took time to comment on this document. Should questions arise regarding these categories or the response to public comments, please contact Ms. Peg Bostwick, Land and Water Management Division, MDEQ, at 517-335-3470 or bostwicp@michigan.gov.

Please share this document with others in your organization as appropriate. Thank you for your time and consideration of this matter.

Sincerely,

Elizabeth M. Browne, Acting Chief
Land and Water Management Division
517-373-1170

Attachment

cc: Ms. Peg Bostwick, MDEQ



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STATE OF MICHIGAN
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GENERAL PERMIT CATEGORIES FOR MINOR ACTIVITIES IN WETLANDS IN THE STATE OF MICHIGAN

Issued June 13, 2007

Issued Under Part 303, Wetlands Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, being Sections 324.30301 to 324.30323 of the Michigan Compiled Laws, Annotated

BACKGROUND INFORMATION

PURPOSE

Part 303, Wetlands Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), authorizes the Michigan Department of Environmental Quality's (MDEQ) Land and Water Management Division (LWMD) to define types of regulated activities that would be expected to have only a minor impact on wetlands and that can, therefore, be reviewed through an expedited permit application process. This General Permit (GP) defines those activities that the LWMD has determined to be minor and also defines the legal authority and limitations for use of this process.

The purpose of this GP is to allow the LWMD to evaluate applications for permits for many minor activities in wetlands without the delays of unnecessary public noticing. The objective of this GP is to reduce the inconvenience and cost of the permit process for applicants proposing minor activities and to reduce the costs of administering the program while protecting the wetland resource.

Please note that this GP does not define projects that will be authorized, but only those that may be considered for accelerated processing. Applications under this GP may be issued, issued with conditions or modifications, or denied. Authorization will be issued only if it is determined that the proposed activity is in accordance with the criteria and requirements of Part 303 and other applicable statutes.

GENERAL PERMIT PROCEDURES

A person seeking authorization under this GP must submit a permit application on a form supplied by the LWMD. A preliminary determination of whether an application may be processed under this GP is made by LWMD staff when the application is received. Applications processed under GP procedures are reviewed without issuance of a public notice. If at any time in the review process it is determined that an application for a specific project does not meet all the general and specific GP criteria, or that the project should be subjected to public review, the applicant will be notified and the application will be returned to Lansing for processing as an individual permit application, including the issuance of a public notice. The processing as an individual permit application may require the applicant to provide additional information and an additional application fee. The LWMD may deny the individual permit if warranted.

REGULATORY AUTHORITY

The LWMD, in accordance with Section 30312(1) of the NREPA, being Sections 324.30301 to 324.30323 of the Michigan Compiled Laws, Annotated; and the Administrative Rules for Wetlands Protection being R281.921 to R281.925, has determined that the activities listed in this GP meet the requirements given in Part 303 and the rules and, therefore, initially qualify for incorporation into this GP.

Section 30312(1) of the NREPA states, in part, "The department ... may issue general permits ... for a category of activities if the department determines that the activities are similar in nature, will cause only minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effects on the environment."

Rule 281.923(1) of the Part 303 Administrative Rules indicates that:

An application for a proposed activity which is within a general permit category may be processed and issued by the department without the noticing or hearings specified under section 30307 of the act. The department may process, by public notice, an application which would normally qualify under a general permit category to allow more opportunity for public review and comment. Categories of minor activities will be established in the general permit in accordance with section 30312 of the act. The factors set forth in sections 30302 and 30311 of the act shall be considered in determining whether such a permit is in the best interest of the public.

GENERAL CRITERIA FOR REVIEW

Section 30311 of the NREPA specifies the criteria that must be met before a permit authorization may be issued. These general criteria, as well as the specific criteria detailed later in this GP, must be met before the LWMD can issue an authorization under this GP.

Subsection (1) states that "A permit for an activity ... shall not be approved unless the department determines that the issuance of the permit is in the public interest, that the permit is necessary to realize the benefits derived from the activity, and that the activity is otherwise lawful."

Subsection (4) states that "A permit shall not be issued unless it is shown that an unacceptable disruption will not result to the aquatic resources.... A permit shall not be issued unless the applicant also shows either of the following:

- (a) The proposed activity is primarily dependent upon being located in the wetland.
- (b) A feasible and prudent alternative does not exist."

LIMITATIONS

The types of activities described in this document can typically be processed as minor actions. However, some activities will not qualify for this type of processing even if the listed criteria are met. Applications will not qualify for consideration under these categories if:

- A) It is determined that the proposed project would constitute a "major discharge" subject to Federal review under any State-Federal memorandum of agreement;

- B) The wetland is associated with sensitive natural resource areas including:
1. a Federally designated wild and scenic river,
 2. a State designated natural river,
 3. a State or Federally designated wilderness or environmental area,
 4. a riverine floodway, unless qualified as a Minor Project under Part 31,
 5. a State or Federally listed or proposed threatened or endangered species (unless alternative procedures are followed to coordinate with federal agencies, or the landowner has obtained a letter of no impact from the Michigan Department of Natural Resources),
 6. an identified historic or archeological area,
 7. an identified recharge area for drinking water aquifers,
 8. an identified rare or unique ecological type;
- C) The LWMD determines that the decision making process would benefit from public review of the application;
- D) The LWMD determines that a specific activity that would generally qualify as minor would, due to the proximity of other projects and the characteristics of the wetland, likely lead to adverse cumulative impacts;
- E) The project also requires a permit under Parts 31, 301, or 325 but does not meet one of the minor categories under those parts; or
- F) The project also requires a permit under Parts 315 or 353.

NEED FOR OTHER PERMITS

Authorization under this GP does not remove the need for other applicable local, State, or Federal permits.

GENERAL PERMIT CATEGORIES

The following activities are incorporated into this list of GP categories.

A) **Small Ponds**

In addition to the General Criteria and Limitations outlined above, the proposed activity must meet the following specific criteria.

1. Construction of a pond or ponds that are not directly connected to an existing inland lake or stream, impacting a total of not more than one third acre of wetland;
2. Maintenance dredging of man-made ponds up to one acre in size that were previously authorized under this part or under Part 301 where such ponds are not directly connected to an inland lake or stream.

All dredge spoils including organic and inorganic soils, vegetation and debris shall be placed at an upland site, leveled and stabilized with sod, or seeded and mulched in such a manner as not to erode into any water body or wetland, and not be located in a floodway or harmfully interfere with flood flows.

This GP category does not authorize impacts to forested wetlands, locally uncommon wetlands types, or wetlands that are of a rare or unique ecological type on a statewide basis.

Only one permit under this GP category may be authorized on the same parcel of property within any five year period.

B) Simple Elevated or Floating Structures

In addition to the General Criteria and Limitations outlined above, the proposed activity must meet the following specific criteria.

1. Boardwalks. Open pile or floating boardwalks constructed of appropriate non-polluting materials used to access wetlands or open water provided that they do not exceed 6 feet in width, except for widening to allow passage of wheel chairs, etc., at 150-foot intervals, and have a maximum cumulative length through wetlands of 500 feet.
2. Platforms. Open pile or floating platforms constructed of appropriate non-polluting materials not to exceed 120 square feet of surface area.

Roofs and walls are not authorized for structures included in this category. However, railings may be authorized if proper justification is provided by the applicant and determined by the LWMD to be necessary during the review process.

C) Fences

In addition to the General Criteria and Limitations outlined above, the proposed activity must meet the following specific criteria.

1. Residential Fences. Residential open construction fences elevated above the wetland on poles to allow for migration of reptiles, amphibians, and other small wildlife. Fences shall be limited to 5 feet in height and 150 feet in total length through wetland. (Note: This subcategory does not include fences that impact an inland lake or stream.)
2. Livestock Fences. Open construction wire, plastic, or wooden fences elevated above the wetland on poles, with or without electric wires, designed to control livestock and limited to 5 feet in height and 200 feet in length through wetlands.
3. Airport and other Security Fences. Perimeter fences placed for security and safety purposes at airports as mandated by the Federal Aviation Administration, at other facilities as mandated by the Federal Department of Homeland Security, or at military bases. Mowing of up to 12 feet on either side of the fence is allowed under this category.

All fences must be constructed of non-polluting materials.

This GP category is for placement of fencing only. It does not authorize placement of fill for access roads, berms or any similar purpose, nor does it authorize excavation for drainage ditches.

This GP category does not authorize fences designed to exclude wildlife from wetlands or to provide cervidae enclosures.

D) Walkways on Public Lands or Lands Managed by Nonprofit Conservation Organizations

In addition to the General Criteria and Limitations outlined above, the proposed activity must meet the following specific criteria.

Walkways or footpaths on public lands or on lands that are owned or managed by nonprofit conservation organizations, not to exceed 6 feet in base width and 200 feet in length where boardwalks or elevated walkways are not feasible or practical. Culverts will be required where necessary to provide for the free flow of surface water. If in a floodway, the grade elevation change shall not exceed four inches. This category only applies to areas that do not have standing water.

E) Driveways

In addition to the General Criteria and Limitations outlined above, the proposed activity must meet the following specific criteria.

Construction of new driveways or the widening of existing driveways, provided that:

- Any upland on the property or other alternatives, such as obtaining a permanent easement for access from adjacent upland if available or shared driveway, is utilized to the greatest degree possible.
- The location of the driveway is at the least damaging place on the property (e.g., as close to any upland edge as possible or terminating in the upland nearest to the road access) and the driveway crosses the shortest wetland area or area of least impact. This GP category cannot be used to authorize a wetland crossing to achieve proximity to lakes, streams, or other features if an upland building site is available without crossing the wetland.
- The portion or portions of the driveway that pass through wetland are restricted to a total of 16 feet in base width (includes the width of any existing drive and associated fill), or are of clear span or open pile construction, and are a total of 200 linear feet. The driveway may be wider than 16 feet at the intersection with the public road if the applicant provides proof that the additional width is a requirement of a public transportation agency. No ditches may be placed in the wetland in association with the driveway.
- The driveway must terminate at a buildable upland site.

Culverts shall be placed as necessary to provide for the free flow of surface and subsurface water and the movement of organisms. Fill shall be placed on filter fabric, or equivalent material if warranted by soil conditions.

F) Utilities

In addition to the General Criteria and Limitations outlined above, the proposed activity must meet the following specific criteria.

The placement of utilities through wetland, including activities such as:

Sewer and water line construction;
Electric transmission and telephone poles and lines (but not including construction of transmission towers);
Underground utility lines (cable, fiber optics, telephone); or
Oil/gas pipelines with outside diameter larger than six inches.

- Crossing locations shall be selected to minimize the impact to the wetland.
 - The outside diameter of the pipe, cable, encasement, etc., shall not exceed 20 inches.
 - Construction shall be completed using construction methods, equipment, and materials that will minimize the impact on the wetland, using the following sequence of preferred methods.
1. Directional boring must be used where it is necessary to cross a wetland, and it is feasible and prudent to use this method. (Jack and bore methods may be used for short crossings.) Use of this method should be given particular emphasis in any area that is prone to erosion, on slopes upgradient from coldwater streams, in forested wetland habitat, in high quality wetlands or wetland types that are locally uncommon, and in any wetland that contains a rare or imperiled community type as defined by the Michigan Natural Features Inventory or LWMD.
 2. Plowing-in or knifing-in of utility lines may be used in wetland areas where it is not feasible and prudent to use directional boring - for example, along existing road or utility corridors, or in some wetland types where impacts are minimal. Plowing-in is to be avoided in forested areas where trees must be removed, thereby opening a new corridor; in these areas, directional boring is clearly preferred.
 3. Open-trenching is acceptable only when it has been determined that the wetland crossing cannot be avoided, and that no other method is feasible and prudent.

When these methods are used, the following additional criteria apply.

Directional Bore or Jack and Bore (No limit on distance of wetland crossing):

- The entrance and exit locations of the bore shall be located entirely in uplands outside of the wetland, and isolated with double rows of properly installed silt fencing.
- Where it intersects the wetland, the top of the bore hole shall be a minimum of 48 inches below the wetland surface elevation.
- A plan for preventing and controlling the loss of drilling mud into the wetland must be submitted with the application.

Plowing-in / Knifing-in Utility Line Installation (No limit on distance of wetland crossing):

- This method is used for utility lines of a size that can be immediately placed in a temporary trench causing minimal disturbance in wetlands.
- The utility will be immediately installed and areas immediately restored to grade.
- No additional fill materials (other than utility itself) shall be placed in the wetland.
- Any rutting or other soil disruption areas shall be restored and stabilized using a native Michigan wetland seed mix with purchase receipts provided to the DEQ.
- This method should not cross open water wetland areas.

Open Trench Method (Maximum 500 feet total wetland crossing):

- Project design and construction features shall assure that backfill used in the excavated trench will not result in the drainage of the wetland. Clay plugs shall be placed at the wetland/upland boundary and as needed throughout the trench system.
- Construction mats shall be utilized to the greatest extent possible to minimize ground compaction and disturbance of the wetland vegetation.
- Excavated materials shall be stockpiled and used to backfill the trench area with the top 6-12 inches of topsoil being stockpiled separately to backfill the top portion of the trench.
- Excess excavated material shall be removed from the wetland area and placed and properly stabilized in an upland (non-wetland, non-floodplain) area.
- Any excavated materials sidecast or stockpiled in the wetland shall not remain in the wetland for more than 30 days.
- All disturbed areas shall be restored within 30 days of completion of the installation, to original grade, soils de-compacted, and seeded with a native Michigan wetland seed mix with purchase receipts provided to the DEQ.

G) Oil, Gas, and Mineral Well Access Roads

In addition to the General Criteria and Limitations outlined above, the proposed activity must meet the following specific criteria.

Access roads for oil/gas drilling or mineral well drilling activities, where angle drilling from upland is not feasible, and where the activity is of minor impact to the wetland on both an individual and cumulative basis. The access road where constructed in wetlands shall not exceed 20 feet in base width and 300 feet in length, and shall be placed on filter fabric or equivalent material. Culverts will be required, where necessary, to provide for the free flow of surface or subsurface water or to avoid restricting low flows and the movement of aquatic organisms.

Immediately upon plugging the well, all fill material shall be removed, the original wetland contours restored, and the site stabilized with a wetland seed source and mulched if necessary. The applicant shall provide a restoration plan, including a construction sequence, defining how any permitted wetland fill will be removed and the site restored.

H) Stormwater Outfalls

In addition to the General Criteria and Limitations outlined above, the proposed activity must meet the following specific criteria.

Stormwater outfalls, provided that the outlet is riprapped or otherwise stabilized to prevent soil erosion and the stormwater will be pretreated by incorporating permanent Best Management Practices, will meet State water quality standards and applicable discharge permit requirements, and will have no more than minimal adverse impact to the hydrology of the wetland. All efforts should be made to minimize any changes in the wetland watershed area and the predevelopment quantity of water that the wetland receives.

I) **Culverts**

In addition to the General Criteria and Limitations outlined above, the proposed activity must meet the following specific criteria.

Culverts, if installed for water level equalization, i.e., to provide for the free flow of surface water between portions of a wetland system, and to equalize the static water pressure.

J) **Emergency Drain Maintenance**

In addition to the General Criteria and Limitations outlined above, the proposed activity must meet the following specific criteria.

Projects not otherwise exempt under Section 30305(2)(h) involving maintenance, repair, or operation of an existing drain where necessary to alleviate flooding on an emergency basis, providing that:

- The activity does not otherwise require a permit under Part 301, Inland Lakes and Streams, of the NREPA;
- The area and extent of current wetlands will not be diminished; and
- The activity is limited to restoring the drain to depths and widths that do not exceed historic constructed dimensions as defined by the original permit issued under Parts 301 and/or 303, or by the original engineering design in the instance of a drain constructed prior to the effective date of Part 301.

K) **Drain management & conservation practices**

In addition to the General Criteria and Limitations outlined above, the proposed activity must meet the following specific criteria.

The following activities when carried out in conjunction with routine management of county and intercounty drains established pursuant to the Drain Code of 1956 by County Drain Commissioners or their agents:

1. Localized drainage or fill of wetlands associated with reshaping of banks for the purposes of increasing bank stability. This category may be used to authorize activities such as flattening of slopes where the banks of drains have been historically maintained with an excessively steep grade; establishing low-flow channels within a drain; and installing bioengineered bank stabilization materials. The purpose of the project must be to modify the cross section of currently serviceable drainage ditches to improve water quality by reducing bank erosion, and may not result in drainage of wetlands beyond the immediate project area.

A project authorized under this GP is limited to one mile of drain impact (cumulatively) for the entire authorized project, and alteration of the drain cross section may not directly impact more than 1/3 acre of wetland outside of the existing channel. All new slopes must be stabilized with vegetation native to Michigan or bioengineering materials. This subcategory does not include deepening of the drain beyond its original constructed depth, or relocation of the drain, or significant change in the location of the centerline of the drain. Excavated materials must be disposed of and stabilized in an upland, non-floodplain, location, except when a berm is needed along the ditch to minimize adjacent wetland drainage.

2. Minor repair/stabilization of streambank above the Ordinary High Water Mark (OHWM) in wetland. Placement of up to five cubic yards of clean fill per repair in wetlands above the OHWM to stop streambank erosion, or to repair damage from falling trees or similar events. The area filled must not significantly exceed the elevation of the original streambank, and must be stabilized with vegetation native to Michigan or other appropriate material to prevent further erosion.

L) Septic System Replacement

In addition to the General Criteria and Limitations outlined above, the proposed activity must meet the following specific criteria.

Replacement of a failed on-site septic tank and/or drain field system providing that it is required by and meets design standards of the local health department. When possible the replacement tank and field system must be in the same location as the original system. Where the option is available, pump-back systems to upland will be required in place of mounded systems in order to qualify for construction under this GP category. A copy of the local health department permit or permission must be submitted to the LWMD at the time of application.

M) Repairs to Serviceable Structures

In addition to the General Criteria and Limitations outlined above, the proposed activity must meet the following specific criteria.

Repairs to a serviceable structure that is not otherwise exempt from permits under Part 303 provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated in the original design. This category applies to structures in existence on October 1, 1980, or constructed pursuant to Part 303. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, current construction codes, or safety standards, that are necessary to make repairs may still be considered under this category providing that the environmental impacts resulting from the entire repair are minimal. Serviceable means useable as is or with minor repair, but not so degraded as to essentially require reconstruction. Serviceable structures damaged by storms, floods, fire, or other discrete events are included under this category provided that the repairs are commenced or under contract to commence within one year of the date of the damage.

This GP category cannot be used to authorize any alteration of drains, which are not considered "serviceable structures" for purposes of these regulations.

N) Emergency Spill Cleanup

In addition to the General Criteria and Limitations outlined above, the proposed activity must meet the following specific criteria.

Activities required for the emergency containment and cleanup of oil and hazardous substances provided that:

- The work is done in accordance with State or Federal contingency plans;

- The MDEQ division or Federal agency responsible for requiring the spill cleanup concurs with the proposed containment and cleanup actions, and the applicant provides some proof of this concurrence with the application; and
- The wetland will be fully restored to its original condition prior to the discharge or spill.

O) Cleanup of Hazardous Substances and Hazardous and Toxic Waste

In addition to the General Criteria and Limitations outlined above, the proposed activity must meet the following specific criteria.

Specific activities required to affect the containment, stabilization, or removal of hazardous substances or hazardous or toxic waste materials that are performed, ordered, or sponsored by the U.S. Environmental Protection Agency (USEPA) or the MDEQ provided that the plan prevents, to the extent feasible, any impacts to water or wetlands. The application must include a delineation of the affected wetland and a letter from the agency requiring the cleanup confirming the need for and explaining the scope of the cleanup. Court-ordered remedial action plans or related settlements also qualify under this category. This category does not include the establishment of new disposal sites, nor does it include improvements or expansions of existing sites, such as caps, leachate collection ponds, access roads, etc., that are used for the disposal of hazardous or toxic wastes, all of which will be processed as individual permit applications.

The LWMD will coordinate with USEPA's 404 Program staff on all applications submitted under this category.

P) Maintenance Dredging of Man-Made Stormwater and Wastewater Treatment Ponds and Lagoons

In addition to the General Criteria and Limitations outlined above, the proposed activity must meet the following specific criteria.

Excavation and removal of accumulated sediment for maintenance of functional and active stormwater retention or detention basins, sediment basins, treatment ponds and lagoons, or other man-made water treatment or retention areas created for those sole purposes. Dredged material must be placed in an upland site outside of regulated floodplains and stabilized with sod, or seeded, mulched, or riprapped, as necessary, to prevent soil erosion into any inland lake, stream, or wetland; or dredged material may be placed in a licensed landfill based on sediment leachate analysis of the material. The applicant shall submit the analytical results and sampling locations with the application. The upland disposal sites or licensed landfill must be identified in the plans.

Q) Public Road Projects

In addition to the General Criteria and Limitations outlined above, the proposed activity must meet the following specific criteria.

Public road projects contained within the existing right-of-way where all practical means have been used to minimize the wetland impact, and all components of the project will impact no more than two acres of wetland. This category shall be further restricted to the following:

1. Safety Improvements. The following projects which, after a finding of necessity by the public transportation agency, are determined to be required for safety reasons and for which the wetland fill will not exceed one-third acre per wetland.

- a) Flattening of road slopes to meet the minimum safety standard.
 - b) Construction of standard shoulder widths.
 - c) Installation of guardrail flares.
 - d) Intersection improvements.
 - e) Elimination of roadside obstacles, such as sign platforms and utility poles.
 - f) Addition of a lane for safety reasons.
 - g) Open construction highway fencing elevated above the wetland on poles limited to five feet in height.
2. Roadside Ditch Maintenance. Re-establishment of existing roadside ditches to the original size, shape, and location where the draining of adjacent wetlands will not occur. Excavated materials must be disposed of and stabilized on upland, except when a berm is needed along the ditch to minimize adjacent wetland drainage.
 3. Equalizer Culverts. Replacement, extension, or maintenance of an existing equalizer culvert that is required to maintain a hydraulic connection and static water pressure between parts of a wetland severed by an existing roadway where the extension will not exceed the toe of slope on either side of the fill.
 4. Temporary Work Pads. Temporary work pads where the site will be restored to its preconstruction condition within one year.

R) Minor Residential Construction for Parcels Owned Since 1980

In addition to the General Criteria and Limitations outlined above, the proposed activity must meet the following specific criteria.

Construction or expansion of a single family residence with the total impact area in wetlands not exceeding one-quarter acre for all phases of the residential construction, including a driveway [*Note: this GP category cannot be used in conjunction with Category E. Driveways*] a one- or two-car garage, small storage shed (not to exceed 100 square feet), foundation fill, and all waste treatment facilities, provided that:

- The ownership of the parcel of land shall have been maintained within the immediate family (the original owners or their children) since October 1, 1980. This category can be used only once on a parcel of land that existed prior to October 1, 1980, and only one permit can be granted to a family. It cannot be used on parcels established on or after October 1, 1980. Only one permit under this minor fill provision of the GP may be granted to a person.
- No fill shall be placed in any part of a wetland that is inundated by water and provides fish habitat functions at any time.
- All upland on the property shall be utilized to the greatest degree possible.
- The proposed fill in wetlands shall be at the least damaging location on the property.
- All necessary actions shall be taken to minimize on-site and off-site impacts including sewage treatment systems that pump back to uplands where feasible.
- The filled area surrounding building foundations will not be greater than 15 feet from the edge of the foundation to the toe of the slope. Fill slopes shall not be flatter than 1 vertical to 4 horizontal. Additional fill for purposes such as landscaping or recreational facilities will not qualify under this category.

S) Scientific Measuring Devices and Test Wells

In addition to the General Criteria and Limitations outlined above, the proposed activity must meet the following specific criteria.

Scientific structures, such as staff gauges, water monitoring devices, water quality testing devices, core sampling devices, and small test wells and piezometers. All such devices must be constructed of nonpolluting materials. The placement of any scientific structure or device must have the approval of the property owner. Placement of any scientific device must require no more than an insignificant amount of excavation or fill as necessary to establish a solid base for installation of equipment, or covering of installed devices.

This GP category shall not be used to authorize:

- Weirs or other structures that impede the flow of water or alter the water elevation on a site.
- Water extraction wells, oil and gas exploration wells, or other large scale well drilling.
- The construction of haul roads or temporary access roads.

T) Fish and Wildlife Habitat Structures

In addition to the General Criteria and Limitations outlined above, the proposed activity must meet the following specific criteria.

Fish and wildlife habitat structures (e.g., nesting platforms) placed in wetlands, where, (a) the property is owned and managed by a State or Federal resource agency and the structures are placed in accordance with an approved management plan, or (b) a private landowner has received the written authorization from the appropriate Department of Natural Resources' District Fisheries or Wildlife Biologist.

All such structures must be constructed of non-polluting materials that will not degrade habitat for existing species. Placement of any habitat structure must require no more than an insignificant amount of excavation or fill necessary to establish a solid base for installation of equipment, or covering of installed devices.

This GP category will not be used to authorize:

- Weirs or other structures that impede the flow of water or alter the water elevation on a site.
- Excavation of ponds or placement of berms or other structures that require placement of a significant volume of fill.
- The construction of haul roads or temporary access roads.

U) Wetland Habitat Restoration and Enhancement

In addition to the General Criteria and Limitations outlined above, the proposed activity must meet the following specific criteria.

This category applies only to projects that serve to restore or enhance wetland functions and shall not result in a net loss of wetland acreage or function. Projects under this category are

limited to those being conducted by or in cooperation with State or Federal agencies and nonprofit conservation organizations.

For this category, altered wetlands include areas that have been partially or fully drained by ditching, tiling, and/or pumping; or partially or fully filled by direct placement of material or significant sedimentation; or where other land use conversions have resulted in significant alteration of the original character of the site.

1. Shallow Water Development for Wildlife ("Pushouts").

Construction or maintenance of individual shallow water developments for wildlife (generally known as "pushouts") within altered wetlands, provided that the proposed activity meets all of the following criteria.

- At least 50 percent of the surface area of the pushout shall have a water depth of no more than 18 inches, and the maximum depth of the pushout shall be no more than 72 inches.
- Dredged or excavated spoils shall not be located in a floodway or harmfully interfere with flood flows. Spoils must be removed from any floodplain regulated under Part 31, Water Resources Protection, of the NREPA, or otherwise meet the criteria for a Minor Permit under that part.
- The pushout shall not be constructed within or physically touching an inland lake or stream.
- The area impacted by pushout(s) shall not exceed 0.5 acre, with the exception of certain farmed wetlands and wetlands degraded by invasive species as described below.
- All excavated spoils including organic and inorganic soils, vegetation and debris shall be placed at an upland site, leveled and stabilized with sod, or seeded and mulched in such a manner as not to erode into any water body or wetland, unless this material is used to re-establish microtopography in certain altered wetlands as described below.

The following additional criteria apply only to wetlands that have been farmed within that past five years, or that are dominated by invasive species such as reed canary grass, purple loosestrife, and *Phragmites*:

- The area impacted by individual pushouts shall not exceed 1.5 acres, and the cumulative impact of pushouts associated with a project shall not exceed 3 acres.
- Dredged or excavated spoils from the pushout(s) may be placed within wetlands immediately adjacent to the pushout in order to re-establish microtopography, provided that spoil placement area is limited to a maximum of one acre per project, and that the spoil area will continue to meet the definition of a wetland under Part 303 based on expected water depths shown on project plans.

2. Restoration or Enhancement of Altered Wetland Areas.

Projects that serve to negate or minimize the negative impacts of historic efforts to drain, fill, or destroy wetlands.

Projects authorized under this subcategory include:

- Restoration (to the extent possible) of the original or natural wetland hydrology, vegetation, and/or functions of altered wetlands.
- Enhancement of certain characteristics of a wetland in a manner not consistent with original conditions (e.g. increased hydrology, alteration of vegetation or wetland functions) only in wetlands that have been farmed within the past five years, or that are dominated by invasive species such as reed canary grass, purple loosestrife, and *Phragmites*.

This subcategory does not include conversion of unaltered wetlands to another aquatic use, such as the creation of a pond or impoundment, the alteration of a wetland identified as a rare or unique ecological type, or the conversion of forested wetlands to another habitat type.

Specific wetland restoration and enhancement activities that may be authorized under this subcategory include:

- Installation and maintenance of small water control structures, dikes, berms, and embankments.
- Removal or blocking of existing drainage structures (e.g., ditch plugs, tile breaks, pump removal).
- Use of soil cultivation equipment, such as harrows, discs, and plows, to re-establish microtopography in wetlands that have been farmed within the past five years, or that are dominated by invasive species such as reed canary grass, purple loosestrife, and *Phragmites*.
- Excavation of accumulated sediment or fill to the original hydric soil surface.

Wetland fill for dikes, berms, embankments, and other structures shall not exceed two acres. The purpose of such fill shall be to restore the original hydrological function of the altered wetland. The two acre size limit refers only to the wetland area on which fill is placed and not to the broader disturbance area or restored basin size.

The following activities **cannot** be authorized under this subcategory, and require individual permits:

- Construction of a dike, berm, or embankment that is six feet or more in height and that impounds an area of five acres or more during a design flood; such activity requires authorization under Part 315, Dam Safety, of the NREPA.
- Any encroachment of a floodplain, floodway, or stream channel that drains over two square miles except for those activities meeting the minor project categories listed in Part 31.
- Any alteration of a lake or stream requiring approval under Part 301, Inland Lakes and Streams, of the NREPA, except those activities meeting minor project categories listed in the Administrative Rules for Part 301.

- Any alteration of Great Lakes submerged bottomlands requiring approval under Part 325, Submerged Lands, of the NREPA, except those activities meeting the minor project categories listed in Part 325.
- Projects that require a permit under Part 323, Shorelands Protection and Management, of the NREPA.
- Projects that require a permit under Part 353, Sand Dune Protection and Management, of the NREPA.

V) **Removal of Man-Made Structures**

In addition to the General Criteria and Limitations outlined above, the proposed activity must meet the following specific criteria.

Physical removal of small man-made structures from wetlands, not including houses or commercial buildings, provided that the following conditions can be met.

- The structure to be removed does not control the water level of an inland lake or stream, or the water level in the adjacent wetland.
- All material removed from the wetland, including footings and pilings, must be removed from the wetland and be disposed of properly in an upland location, or a landfill as appropriate.
- Any bare soil or disturbed areas shall be promptly stabilized to prevent erosion.
- The wetland must be restored to its original condition or to a condition that is consistent with the surrounding wetland area. Where plantings are required, native Michigan plants must be used.
- This GP category does not authorize more than de minimus excavation of soil and sediment or the use of water jetting to remove structures in wetlands.

This GP modifies and replaces the June 14, 2002 *General Permit Categories for Minor Activities in Wetlands in the State of Michigan* and shall expire five years from the date of issuance on June 13, 2012, unless revoked or modified before that date.